

(2) \* \* \*

(i) The contracting officer shall reduce the overall prenegotiation profit objective by the amount of facilities capital cost of money. The profit amount in the negotiation summary of the DD Form 1547 must be net of the offset.

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9. Section 215.404-74 is amended by revising paragraph (c) to read as follows:

**215.404-74 Fee requirements for cost-plus-award-fee contracts.**

\* \* \* \* \*

(c) Apply the offset policy in 215.404-73 (b) (2) for facilities capital cost of money, *i.e.*, reduce the base fee by the amount of facilities capital cost of money; and

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 000714206-0206-01; I.D. 061400A]

RIN 0648-AM53

#### Fisheries of the Exclusive Economic Zone Off Alaska; Western Alaska Community Development Quota Program

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues a proposed rule to reduce observer coverage and experience requirements for some catcher vessels and shoreside processors participating in the Western Alaska Community Development Quota (CDQ) fisheries. This action is necessary to reduce costs associated with the observer coverage requirements in the CDQ fisheries. It is intended to further the objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

**DATES:** Comments must be received by August 23, 2000.

**ADDRESSES:** Comments may be mailed to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel. Hand or courier delivered comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801.

Comments also may be sent via facsimile (fax) to 907-586-7465. Comments will not be accepted if submitted via e-mail or the Internet. A copy of the Regulatory Impact Review (RIR) prepared for this action can be obtained from the same address, or by calling the Alaska Region, NMFS, at 907-586-7228.

**FOR FURTHER INFORMATION CONTACT:**

Alan Kinsolving, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages fishing for groundfish by U.S. vessels in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) according to the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels and implementing the FMP appear at 50 CFR parts 600 and 679.

Through the CDQ program, NMFS allocates a portion of the BSAI groundfish, prohibited species, halibut, and crab total allowable catch (TAC) to 65 eligible Western Alaska communities. These communities must use the proceeds from the CDQ allocations to start or support commercial fishery activities that will result in ongoing, regionally based, commercial fishery or related businesses. The CDQ program began in 1992 with the allocation of 7.5 percent of the BSAI pollock TAC. The fixed gear halibut and sablefish CDQ allocations began in 1995, as part of the halibut and sablefish Individual Fishing Quota Program. In 1998, allocations of 7.5 percent of the remaining groundfish TACs, 7.5 percent of the prohibited species catch limits, and 7.5 percent of the crab guidelines harvest levels were added to the CDQ program. In 1999, the amount of pollock allocated to the CDQ program was increased to 10 percent of the BSAI pollock TAC as a result of the American Fisheries Act.

On June 4, 1998, NMFS published a final rule imposing catch monitoring and observer coverage requirements for

all vessels and processors participating in the multispecies CDQ fisheries (63 FR 30381). On April 26, 1999, NMFS extended these requirements to vessels equal to or greater than 60 ft (18.3 m) length overall (LOA) that participate in the halibut CDQ fishery. These regulations were issued because, in the CDQ fisheries, all groundfish and prohibited species catch by vessels fishing for CDQ groups accrue against the individual allocations for each CDQ group (64 FR 20210). Because individual vessels, processors, and CDQ groups are accountable for the catch of groundfish and prohibited species, the catch monitoring standards must be more stringent than in many other fisheries. These final rules also impose experience and training requirements for observers that, in most cases, exceed the requirements in the non-CDQ fisheries.

Following completion of the first year of fishing under these regulations, NMFS reviewed the observer coverage and experience requirements and has determined that observers without gear-specific experience were able to perform their duties as well as observers with gear-specific experience on catcher vessels choosing to retain all catch and in shoreplants. Further, NMFS has determined that the data collected by the shoreplant observer were not necessary for effective program management when a CDQ observer from the vessel making a delivery was available to collect shoreside data. Thus, the observer coverage requirements can be reduced without affecting the ability of NMFS to collect the data necessary to monitor and manage the CDQ fishery.

#### Current CDQ Observer Requirements

The current CDQ catch monitoring and observer coverage requirements were imposed to provide accurate and verifiable catch estimates for all CDQ and prohibited species quota (PSQ) species. This led NMFS to issue catch accounting regulations that rely primarily on NMFS-certified CDQ observers to collect data necessary to estimate the catch of all CDQ and PSQ species, or to ensure that all catch was being retained and accounted for at a shoreside processor.

Table 1 summarizes the current observer coverage requirements for the CDQ fisheries. Table 2 summarizes the experience requirements necessary for a CDQ observer and a lead CDQ observer.

TABLE 1. CURRENT OBSERVER COVERAGE REQUIREMENTS FOR THE CDQ FISHERIES.

Category	CDQ Observer Requirements
Catcher vessel, < 60 ft Catcher vessel, ≥ 60 ft Mothership or catcher/processor using trawl or hook-and-line gear	none. 1 lead CDQ observer (obs.). 2 total (1 lead CDQ obs., 1 CDQ obs.).
Catcher/processor using pot gear Shoreside processor	1 lead CDQ obs. 1 lead CDQ obs. for each CDQ delivery, except deliveries from catcher vessels < 60' LOA fishing halibut CDQ.

TABLE 2. REQUIREMENTS FOR CDQ OBSERVER AND "LEAD" CDQ OBSERVER IN 50 CFR 679.50

CDQ Observer Classification	Experience Requirements
All CDQ observers	Prior experience as an observer with 60 days observer data collection, - minimum evaluation rating of 1 or 2, - successfully complete CDQ observer training course.

ADDITIONAL REQUIREMENTS FOR "LEAD" CDQ OBSERVERS

Lead observer on a factory trawler or a mothership	At least 2 cruises (contracts) and sampled at least 100 hauls on a factory trawler or a mothership. At least 2 cruises (contracts) and sampled at least 50 hauls on a catcher vessel using trawl gear. At least 2 cruises (contracts) of at least 10 days each and sampled at least 60 sets on a vessel using nontrawl gear. Observed at least 30 days in a shoreside processing plant.
Lead on catcher vessel using trawl gear	
Lead on vessel using nontrawl gear	
Lead in shoreside plant	

The current regulations require lead CDQ observers on all vessels and shoreside processing plants for which observer coverage is required because NMFS believed that the CDQ observers needed prior experience specific to the vessel or processor type in order to collect the data needed to manage the CDQ fisheries. However, after reviewing the first year of the multispecies CDQ fisheries, NMFS has concluded that a lead CDQ observer is not necessary on some catcher vessels while CDQ fishing or in shoreside processing plants taking CDQ deliveries.

NMFS proposes the following reductions in observer coverage and experience requirements:

1. Eliminate the requirement for a lead CDQ observer on all catcher vessels greater than or equal to 60 ft (18.3 m) LOA using trawl gear. A CDQ observer would still be required. This reduction is justified because the vessel must retain all groundfish CDQ and salmon PSQ and deliver it to a shoreside processor, where it is sorted by species,

weighed, and reported to NMFS. The lead CDQ observer on the vessel estimates the at-sea discards of halibut PSQ and crab PSQ and monitors compliance with retention requirements. NMFS believes that these duties can be performed adequately by a CDQ observer who has prior experience as an observer, but not necessarily vessel-specific experience.

2. Eliminate the requirement for a lead CDQ observer on a catcher vessel greater than or equal to 60 ft (18.3 m) LOA using nontrawl gear that chooses to retain all groundfish CDQ species (option 1 defined at 50 CFR 679.32(c)(2)(ii)(A)). A CDQ observer would still be required. Under current regulations, catcher vessels greater than or equal to 60 ft (18.3 m) LOA using nontrawl gear must select one of two options as the basis for CDQ catch accounting. Option 1 requires the vessel operator to retain all groundfish CDQ and salmon PSQ and deliver them to a processor to be sorted by species, weighed, and reported to NMFS. Under

this option, CDQ catch accounting is based on the processor's reports for groundfish CDQ and salmon PSQ and on the observer data for halibut PSQ. NMFS believes the gear-specific experience of a lead CDQ observer is unnecessary for vessels choosing catch accounting option 1. NMFS would continue to require a lead CDQ observer on catcher vessels using nontrawl gear that select option 2, which is to use observer data as the basis for all CDQ catch accounting. Option 2, which is set forth at 50 CFR 679.32(c)(2)(ii)(B), allows the vessel operator to discard groundfish CDQ species at sea and to use data collected by the observer to estimate the catch of all groundfish CDQ species and halibut PSQ.

3. Eliminate the requirement that a shoreside processing plant provide a CDQ observer to monitor deliveries from catcher vessels that use nontrawl gear and select option 2. Under option 2, only data collected by the observer on the catcher vessel is used for CDQ catch accounting. Therefore, neither a lead

CDQ observer nor a CDQ observer would be necessary at the plant. To date, no catcher vessel has selected option 2 for CDQ catch accounting, so this reduction would not have affected any shoreside processors that participated in the 1999 CDQ fisheries.

4. Eliminate the requirement that shoreside processors required to provide CDQ observers provide a lead CDQ observer when taking CDQ deliveries. A CDQ observer would still be required. NMFS has determined that experience in a shoreside plant would not be necessary for the observer to adequately monitor the sorting and weighing of CDQ deliveries.

5. Reduce the observer coverage requirements for shoreside processors taking CDQ deliveries from catcher vessels equal to or greater than 60 ft (18.3 m) LOA using nontrawl gear and using option 1 (full retention) for CDQ catch accounting to allow the vessel observer to monitor the CDQ delivery in the processing plant. A separate CDQ observer for the shoreside processor is not necessary if the vessel observer can monitor the sorting and weighing of catch at the shoreside processor without exceeding the regulatory working hour limits. Under this revision, the shoreside processor could still choose to provide an additional observer at the processing plant if the shoreside processor did not want its activities to be limited by the working hour limits for the vessel observer.

This proposed rule would also make a minor revision to the introductory paragraph of 50 CFR 679.50(c)(4). The current paragraph requires the owner or operator of a vessel engaged in CDQ fishing to comply with CDQ observer coverage requirements for each day the vessel is used to harvest, transport, process, deliver, or take deliveries of CDQ or PSQ species. NMFS proposes to remove the requirement that CDQ observers be onboard catcher/processors or motherships when they are being used only to transport CDQ catch. The regulations would continue to require an observer on a catcher vessel while CDQ species are being transported. In some cases, catcher/processors continue to process CDQ catch onboard long after catching and processing of the CDQ catch has been completed. There is no need for a CDQ observer to be onboard solely to monitor the transport of processed product.

#### Classification

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not

have a significant impact on a substantial number of small entities as follows:

This proposed rule would apply to the 21 catcher vessels greater than or equal to 60 ft (18.3 m) LOA and 10 shoreplants that participate in the CDQ fishery. The proposed rule would remove the gear-specific experience requirements for CDQ observers deployed in shoreplants and on some types of vessels, which would increase the number of observers qualified to be deployed in the CDQ fisheries. This increased flexibility in observer deployment would reduce the possibility that a qualified observer would not be available when a vessel or processor wants to participate in a CDQ fishery. This proposed action would also allow shoreside plants taking CDQ deliveries from some non-trawl catcher vessels to provide a regular, rather than a CDQ observer, and would reduce observer coverage levels in certain circumstances.

Based on the analysis presented in the Regulatory Impact Review prepared for this rule, NMFS estimates that this action will have a positive impact on the vessels and processors that will be directly impacted by the action and will have no negative impact on observer contractors.

Because of the absence of negative impacts, and because positive impacts are not deemed to have a "significant" impact on small entities, an Interim Regulatory Flexibility Analysis was not prepared.

A copy of the RIR can be obtained from NMFS (see ADDRESSES).

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with that directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule.

#### List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: July 17, 2000.

**Andrew A. Rosenberg,**

*Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set forth in the preamble, 50 CFR part 679 is proposed to be amended as follows:

#### PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.50, paragraph (h)(1)(i)(E)(4) is removed, the first sentence of the

introductory text in paragraph (c)(4) is revised, paragraph (c)(4)(v) is added, and paragraphs, (c)(4)(iv), and (d)(4) are revised to read as follows:

#### § 679.50 Groundfish Observer Program applicable through December 31, 2000.

\* \* \* \* \*

(c) \* \* \*

(4) *Groundfish and halibut CDQ fisheries.* The owner or operator of a vessel groundfish CDQ fishing or halibut CDQ fishing as defined at § 679.2 must comply with the following minimum observer coverage requirements each day that the vessel is used to transport (catcher vessels only), harvest, process, deliver or take delivery of CDQ or PSQ species. \* \* \*

\* \* \* \* \*

(iv) *Catcher vessel using trawl gear.* A catcher vessel equal to or greater than 60 ft (18.3 m) LOA using trawl gear, except a catcher vessel that delivers only unsorted codends to a processor or another vessel, must have at least one CDQ observer as described at paragraph (h)(1)(i)(D) of this section aboard the vessel.

(v) *Catcher vessel using nontrawl gear.* A catcher vessel equal to or greater than 60 ft (18.3 m) LOA using nontrawl gear must meet the following observer coverage requirements:

(A) *Option 1.* If the vessel operator selected Option 1 (as described at § 679.32(c)(2)(ii)(A)) for CDQ catch accounting, then at least one CDQ observer as described at paragraph (h)(1)(i)(D) of this section must be aboard the vessel.

(B) *Option 2.* If the vessel operator selected Option 2 (as described at § 679.32(c)(2)(ii)(B)) for CDQ catch accounting, then at least one lead CDQ observer as described at paragraph (h)(1)(i)(E) of this section must be aboard the vessel.

\* \* \* \* \*

(d) \* \* \*

(4) *Groundfish and halibut CDQ fisheries.*—(i) *CDQ deliveries requiring observer coverage.* Subject to paragraph (d)(4)(ii) of this section, each shoreside processor taking deliveries of groundfish or halibut CDQ must have at least one CDQ observer as described at paragraph (h)(1)(i)(D) of this section present at all times while CDQ is being received or processed.

(ii) *CDQ deliveries not requiring observer coverage.* A shoreside processor is not required to provide a CDQ observer for CDQ deliveries from the following vessels:

(A) Vessels less than 60 ft (18.3 m) LOA that are halibut CDQ fishing;

(B) Vessels equal to or greater than 60 ft (18.3 m) LOA using nontrawl gear

that have selected Option 1 (as described at § 679.32(c)(2)(ii)(A)) for CDQ catch accounting, so long as the CDQ observer on the catcher vessel monitors the entire delivery without exceeding the working hour limitations described in paragraph (d)(4)(iii) of this section; and

(C) Vessels equal to or greater than 60 ft (18.3 m) LOA using nontrawl gear that have selected Option 2 (as described at § 679.32(c)(2)(ii)(B)) for CDQ catch accounting.

(iii) *Observer working hours.* The time required for the CDQ observer to complete sampling, data recording, and

data communication duties may not exceed 12 hours in each 24-hour period, and the CDQ observer is required to sample no more than 9 hours in each 24-hour period.

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